REMARKS

This Amendment is in response to the Office Action mailed 12/08/2004. The responses are in the order in which the issues are set forth in the office action.

Regarding claim 33, the examiner is correct to state that the claim was mistakenly labeled as 32. In response, 32 is change to 33.

Claims 1-4, 25, 26, 33, and 34 are rejected under U.S.C. 102 (e) as being anticipated by Bass et al. (US# 6,460,120)

In response, applicants' respectfully disagree with the examiner. The Bass et al. reference does not teach, among other things, a single arbiter performing the function set forth in the claims. With respect Claim 4 the reference does not teach at least one buffer spreading across at least four banks as recited in the claims. Regarding Claim 33, the claim was recited at least one buffer spread across said multiple sectors. No such teaching or suggestion is disclosed in Bass et al. It is settled law that in order for a reference to anticipate claims every element feature of the claims must be set forth in a single reference. The elements identified above are not disclosed in Bass et al. Therefore, the claims are not anticipated.

With respect to the examiner constructing Bass et al. to cover the element recited in the claims, applicants contend that the examiner's construction appears to be in error and that the reference fails to teach the elements set forth above. These elements distinguish the claims from the reference.

Claim 24 is rejected under 35 U.S.C. 103(a) as being obvious over Bartoldus et al. (US# 6,560,227) in view of Bass et al. (US# 6,460,120).

In response to this rejection applicants' respectfully disagree with the examiner and argues that the examiner fails to make out a prima facie case of obviousness as required under 35 U.S.C. 103. To make out a prima facie case of obviousness every element in applicants' claim must be found in combined references. As argued above and incorporate hereby reference, Bass et al reference does not teach a single arbiter

performing the function set forth in the last element of Claim 24. Therefore, the examiner combination would not teach every element of the applicants' claim. As a consequence the examiner has failed to make out a prima facie case of obviousness.

In addition, applicant argue that even after the examiner combination the resulting reference would not render claim 24 obvious because the last element of the claim which calls for a single arbiter performing the function set forth in the claim would not be present in the examiner combination. Therefore, the claim is not obvious in view of the combined references.

Claims 5-9 and 28 are objected to but would be allowed if written in independent form. In response, these claims are written in independent form and are now in condition for allowance. In addition, new claims 35 and 36 are based on claim 3 written in disjunctive format. Therefore, claim 3 yields the two new claims, resulting from claim 6 being dependent on it.

Applicants believe that the examiner's argument on sufficiency of the declaration is in error. However, because the reference cited by the examiner does not render the claims unpatentable then applicants see no need to address the sufficiency of the declaration. However, if the examiner persists with the rejection applicants in subsequence document, such as an appeal, will address the issue that Bass et al should not be considered as prior art in view of the affidavit which applicants believed is sufficient.

It is believed that the present amendment answers all the issues raised by the examiner. Reconsideration is hereby requested and an early allowance of all the claims is solicited.

Respectfully Submitted,

Joscelyn G. Cockburn

Joscelyn G. Cockburn, Reg. No. 27,069
Attorney of Record
IBM Corporation; IP Law Dept. 9CCA/B002
P.O. Box 12195
Research Triangle Park, NC 27709

JGC:ko
919-543-9036
FAX 919-254-2649